

Agenda Item 5

Background material follows this separator page.

Town of Vienna

Council Agenda Communication

DATE: January 5, 2009	SUBJECT: PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE TOWN OF VIENNA, CHAPTER 18, <i>ZONING</i> , ARTICLE 27, <i>PENALTIES</i> , SECTION 18-281, <i>PENALTIES</i> .
AGENDA ITEM: 5	

Originating Department:	Town Attorney
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EXPLANATION AND SUMMARY

The 2008 Session of the Virginia General Assembly considered overcrowding issues during its review of some 3,000 bills during its legislative session. Virginia House of Delegates Bills 445 and 1107 were combined and later published at Chapters 593 and 720, and the resulting language—as approved—was inserted into Section A.5 of § 15.2-2286 of the Code of Virginia. (This legislation had also been requested by the Mayor and Town Council.)

Described by the staff as the “criminal penalty side” of the Town’s zoning ordinance, this legislation specifies monetary penalties ranging from \$10.00 to \$1,000.00, along with certain remedy requirements and a ten (10) day time period for each “separate misdemeanor.” Fines up to \$5,000.00 will apply to the violation of those provisions pertaining to the number of unrelated persons in single-family residential dwellings.

Because the Commonwealth of Virginia strictly subscribes to the “Dillon Rule,” the Town Attorney has proposed the adoption of this new legislation by utilizing the exact language from the aforementioned paragraph A.5 of § 15.2-2286 of the Code of Virginia.

The proposed legislation was referred to the Planning Commission by the Mayor and Town Council at its meeting of October 27, 2008. The Planning Commission conducted a public hearing on November 12, 2008. No comments were received from the public, and after a short discussion, the Commission recommended approval of the proposed legislation by a unanimous vote of 9-0.

Documents Attached:	<ul style="list-style-type: none">- 11-14-08 memo from Laurie DiRocco, Chairperson of the Planning Commission.- Proposed Ordinance on penalties.
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Departmental Recommendation:	
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Town Manager's Recommendation:	
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Town Attorney's Review/Recommendation:	
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Cost and Financing:	
Account Number:	

Decision Needed by This Date:	
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PROPOSED/SUGGESTED MOTION
<p>"I move that the Public Hearing be closed."</p> <p>"I further move for (approval/disapproval) of the Proposed Amendments to the Code of the Town of Vienna, Chapter 18, <i>Zoning</i>, Article 27, <i>Penalties</i>, Section 18-281, <i>Penalties</i>."</p> <p><i>If approved:</i></p> <p>"I further move this item be placed on the agenda of January 26, 2009 for adoption, and that the Town Clerk be directed to advertise a Notice of Adoption."</p>

DISPOSITION BY COUNCIL	
<input type="checkbox"/> Approved	<input type="checkbox"/> Deferred Until:
<input type="checkbox"/> Denied	<input type="checkbox"/> Other:
COMMENTS:	

MEMORANDUM

TO: Mayor and Town Council

FROM: Laurie DiRocco, Chairperson, Planning Commission

DATE: November 14, 2008

RE: Recommendation to the Mayor and Town Council on a proposed ordinance to amend Chapter 18, Zoning, Article 27, Penalties, Section 18-281, of the Code of the Town of Vienna by incorporating new legislation from the 2008 Acts of the Virginia General Assembly

At its regular meeting of November 12, the planning commission considered the proposed ordinance to amend Chapter 18, Penalties, of the Code of the Town of Vienna by incorporating new legislation from the 2008 Acts of the Virginia General Assembly. The planning commission conducted the public hearing where there were no comments from the public. After a short discussion, the planning commission voted to recommend the proposed ordinance by a unanimous vote of 9 to 0.

Proposed by: Town Attorney

A proposed ordinance to amend Chapter 18, Zoning, Article 27, Penalties, Section 18-281, of the Code of the Town of Vienna.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF VIENNA, VIRGINIA THAT:

Section 1: The Town Code, Chapter 18, Zoning, Article 27, Penalties, Section 18-281, Definitions, is amended to read as follows:

Any person, firm or corporation who violates any of the provisions of this Chapter shall be guilty of a misdemeanor, punishable by a fine of not less than ten dollars (\$10.00), nor more than ~~two hundred fifty dollars (\$250.00)~~ *one thousand dollars (\$1,000.00)*. ~~and each day after the first during which such violation shall continue shall constitute a separate violation.~~ *If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars (\$10) nor more than one thousand dollars (\$1,000.00), and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500.00).*

However, any conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall be punishable by a fine of up to two thousand dollars (\$2,000.00). Failure to abate the violation within the specified time period shall be punishable by a fine of up to five thousand dollars (\$5,000.00), and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of up to seven thousand five hundred dollars (\$7,500.00). However,, no such fine shall accrue against any owner or managing agent of a single-family residential dwelling unit during the pendency of any legal action commenced by such owner or managing agent of such dwelling unit against a tenant to eliminate an overcrowding condition in accordance with Chapter 13 or Chapter 13.2 of Virginia State Code Title 55, as applicable. A conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall not be punishable by a jail term.

Section 2: This Ordinance shall become effective ten (10) days following notice of adoption by the Town Council.

Passed and approved this _____ day of _____, 2008

M. Jane Seeman, Mayor

ATTEST:

Town Clerk

c:SDB/Ordinances/ZoningViolationPenalties

Agenda Item 6

Background material follows this separator page.

Town of Vienna

Council Agenda Communication

DATE: January 5, 2009	SUBJECT: PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE TOWN OF VIENNA, CHAPTER 18, <i>ZONING</i> , ARTICLE 18, <i>SUPPLEMENTAL REGULATIONS</i> , SECTION 18-167, <i>HOW FAR A CARPORT MAY PROJECT INTO SIDE YARD</i> .
AGENDA ITEM: 6	

Originating Department:	Town Attorney
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EXPLANATION AND SUMMARY

The Mayor and Town Council were approached a number of years ago about the existing Town Code regulation that permits unenclosed carports to project a maximum of five (5) feet beyond the minimum side-yard setback in each of the three single-family detached residential zones. The Town Attorney later drafted legislation that would allow enclosed one-story garages—not exceeding 14 feet in height—to be constructed on the same “footprint” as is currently permitted for unenclosed carports (unenclosed carports are defined as a structure to shelter vehicles and open on all sides except that side which is attached to the dwelling, and except for a low-rise type of enclosure that does not exceed 18 inches in height). In both instances, carports and enclosed garages would be allowed at a distance of 10 feet from an interior side line in the RS-16 and RS-12.5 zones and 7 feet in the RS-10 zone. The minimum setback of 10 feet from the street side line of a corner lot would remain in effect for all three single-family detached residential zones.

The proposed ordinance amendment was referred to the Planning Commission at the October 27, 2008 meeting of the Mayor and Town Council. The Planning Commission conducted a public hearing during their regular meeting of November 12, 2008. During review of this matter, Commissioners specifically noted the comments in the staff report that “an enclosed garage could actually be favorable in appearance to that of an open carport sheltering a variety of materials.” Concerned about the potential for unintended consequences and the placement of potential living space five feet closer to a side-yard property line, the Planning Commission recommended **denial** of the proposed legislation by a unanimous vote of 9-0.

Documents Attached:	<ul style="list-style-type: none">- 11-14-08 Memo from the Chairman of the Planning Commission.- Proposed Ordinance on Carports.
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Departmental Recommendation:	
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Town Manager's Recommendation:	
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Town Attorney's Review/Recommendation:	
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Cost and Financing:	
Account Number:	

Decision Needed by This Date:	
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PROPOSED/SUGGESTED MOTION
<p>"I move that the Public Hearing be closed."</p> <p>"I further move for (approval/disapproval) of a proposed ordinance to amend the Code of the Town of Vienna, Chapter 18, <i>Zoning</i>, Article 18, <i>Supplemental Regulations</i>, Section 18-167, <i>How Far a Carport May Project into Side Yard</i>."</p> <p><i>If approved:</i></p> <p>"I further move this item be placed on the agenda of January 26, 2009 for adoption, and that the Town Clerk be directed to advertise a Notice of Adoption."</p>

DISPOSITION BY COUNCIL	
<input type="checkbox"/> Approved	<input type="checkbox"/> Deferred Until:
<input type="checkbox"/> Denied	<input type="checkbox"/> Other:
COMMENTS:	

MEMORANDUM

TO: Mayor and Town Council

FROM: Laurie DiRocco, Chairperson, Planning Commission

DATE: November 14, 2008

RE: Recommendation to the Mayor and Town Council on a proposed ordinance to amend Chapter 18, Zoning, Article 18, Supplemental Regulations, Section 18-167, Carports, by adding the term "garage" to those features that may project into a required side yard

At its regular meeting of November 12, the planning commission considered the proposed ordinance to amend Chapter 18 by adding the term "garage" to those features that may project into a required side yard. The planning commission conducted the public hearing where there were no comments from the public. The planning commission voted to NOT recommend the proposed ordinance by a unanimous vote of 9 to 0.

The commissioners understand why residents would want to enclose their carport but feel they should go through the Board of Zoning Appeals for such a request. The commissioners are concerned about the potential for unintended consequences and the placement of potential living space five feet closer to a side-yard property line. Enactment of this proposal could effectively move the side yard setback for any new in-fill construction or major build-out with a garage to ten feet. While a 10 foot setback might be fine for an open structure, such as a carport, it could be too close to the lot line for closed structures, such as garages. Given there are only 2 to 3 requests per year for such projects, the commissioners feel there is no need to change the regulation at this time.

Proposed by: Town Attorney

A proposed ordinance to amend Chapter 18, Zoning, Article 18, Supplemental Regulations, Section 18-167, of the Code of the Town of Vienna.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF VIENNA, VIRGINIA
THAT:

Section 1: The Town Code, Chapter 18, Zoning, Article 18, Supplemental Regulations, Section 18-167, Definitions, is amended to read as follows:

How Far Carport May Project into Side Yard. An unenclosed carport ***or garage*** may project into a required side yard for a distance not to exceed five (5) feet; provided, however, that any yard on the side street of a corner lot shall not be reduced to less than ten (10) feet in width. ***Notwithstanding the above, any such unenclosed carport or garage permitted to project into a required side yard as set forth in this Chapter shall be single story not to exceed fourteen (14) feet.***

Section 2: This Ordinance shall become effective ten (10) days following notice of adoption by the Town Council.

Passed and approved this _____ day of _____, 2008

M. Jane Seeman, Mayor

ATTEST:

Town Clerk

c:SDB/Ordinances/CarportProjectionSideYard

Agenda Item 7

Background material follows this separator page.

Town of Vienna

Council Agenda Communication

<u>DATE:</u> January 5, 2009	<u>SUBJECT:</u> PROPOSED RENEWAL OF A TELECOMMUNICATIONS FRANCHISE AGREEMENT BETWEEN THE TOWN OF VIENNA, A VIRGINIA MUNICIPAL CORPORATION (TOWN) AND XO COMMUNICATIONS SERVICES, INC., FORMERLY KNOWN AS NEXTLINK VIRGINIA, L.L.C., INC. (FRANCHISEE).
<u>AGENDA ITEM:</u> 7	

Originating Department:	Town Attorney's Office
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EXPLANATION AND SUMMARY	
<p>Nextlink Virginia, L.L.C. previously executed a telecommunication franchise with the Town. XO Communications Services, Inc. is the corporate parent and successor in interest to Nextlink. As part of bankruptcy reorganization, XO Communications wishes to continue the operation of its telecommunication services in the Town of Vienna. Accordingly, its franchise agreement needs to be renewed.</p>	

Documents Attached:	Proposed five year Franchise Agreement
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Departmental Recommendation:	Approve franchise extension
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Town Manager's Recommendation:	Concur
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Town Attorney's Review/Recommendation:	Authorize the execution of the proposed Franchise Agreement. The Town will receive its franchise fees as proscribed by Virginia Code Section 56-468.1 as compensation to the Town for the use of Town streets and rights-of-way to run underground fiber conduit in the Town.
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Purchasing Agent's Review/Recommendation:	
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Cost and Financing:	
Account Number:	

Decision Needed by This Date:	
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PROPOSED/SUGGESTED MOTION
<p>“I move to authorize the Mayor to execute and the Town Clerk to attest the proposed five year extension of a Franchise Agreement with XO Communications Services, Inc.”</p> <p><i>or</i></p> <p>Such action Council deems appropriate.</p>

DISPOSITION BY COUNCIL	
<input type="checkbox"/> Approved	<input type="checkbox"/> Deferred Until:
<input type="checkbox"/> Denied	<input type="checkbox"/> Other:
COMMENTS:	

FRANCHISE AGREEMENT

THIS AGREEMENT (the Agreement) is dated this ____ day of _____, 2009~~8~~, by and between the Town of Vienna, a Virginia municipal corporation (Town) and XO Communications Services, Inc., formerly known as NEXTLINK Virginia, L.L.C., Inc. (Franchisee).

Section 1. In consideration of the terms hereof, the payment of required right-of-way user fees by Franchisee to the Town, the annual payment rate as proscribed by Virginia Code Section 56-468.1 as compensation to the Town for the use of certain Town streets to run underground fiber conduit through the Town, and other good and valuable consideration, the Town awards to Franchisee, its successors and assigns, for the term of five (5) years and subject to the conditions and limitations described herein, a nonexclusive franchise to use the streets, alleys, rights-of-way, and public places of the Town as shown on the drawing attached as Exhibit A (as the same may hereafter be modified subject to the Town's permitting process) (the Drawing). The purpose of this grant is to allow Franchisee's construction and maintenance of a system of conduits, ducts, mains, and pipes and such other underground facilities for which permits may be issued by the Town (collectively referred to as the facilities) for the purposes of placing there the Franchisee's wires, cables and appurtenances thereto for running a telecommunications system throughout the Town to provide telecommunication service and access lines to customers in the Town. Franchisee will place all facilities underground unless it is not technically feasible to do so as agreed to by the Town.

Section 2. All facilities, under or along streets, alleys, rights-of-way, and public places of the Town authorized by this Agreement to be placed and constructed, shall be

located underground and as shown on the Drawing (Exhibit A), attached and incorporated by reference. Prior to construction in and under the streets, alleys, rights-of-way, and public places of the Town, Franchisee shall obtain approval from the Town of Franchisee's plans, showing the location of the proposed facilities. Any approval shall be in the form of an excavation permit. If such facilities by the Franchisee are already in existence, Franchisee is authorized to use those facilities. When such plans have been approved, the plans, and any subsequent modifications to them agreed to by the Town, shall be effective and binding to the same extent as if they were set out fully in this Agreement.

Section 3. Franchisee agrees to relocate, at its own expense, within one hundred and twenty (120) days of written notification from the Town, all facilities which, in the reasonable discretion of the Town using recognized engineering standards, interfere, disturb or conflict with the operation, relocation, improvement, repair, construction or maintenance of present or future streets, alleys, rights-of-way, public grounds, storm drainage systems, sewer systems, water mains or other public facilities.

Franchisee shall relocate the facilities using like construction, or better, if technological advances warrant such, to such places designated by the Town. The Town shall use reasonable good faith efforts to designate locations for any relocated facilities that will permit Franchisee to continue to serve its ~~existing~~-customers. Any Town permits needed as a result of a relocation request by the Town, however, shall be at no cost to Franchisee. All facilities shall be relocated underground.

Section 4. In the event Franchisee permits any unaffiliated third party telecommunications service provider to rent or lease Franchisee's ~~separate~~ Access Lines, as defined in § 56-468.1A of the Code of Virginia, ~~to Franchisee's~~ or other facilities located in

the Town's rights-of-way for the purpose of providing telecommunications service, whether by capacity agreement, joint use agreement, common use agreement or any other method whatsoever, Franchisee shall notify the Town as soon as reasonably practical of the date on which and the party to which such permission was given in such manner so as to enable Town to assess such third party with access fees to which Town may be entitled. In the event Franchisee rents or leases its Access Lines to a third party telecommunications service provider~~user~~ and fails to notify Town to the end that Town is unable to collect access fees to which it is otherwise entitled, Franchisee will remain responsible for payment to the Town of the Public Right-of-Way Use Fee (as defined in § 56-468.1 of the Code of Virginia) on such rented or leased Access Lines.

Section 5. If Franchisee shall, in the construction, operation, replacement, maintenance, removal or repair of its facilities, damage any pavement, street, alley, sidewalk, sewer, water or other pipe or other public property (collectively Public Facilities) belonging to the Town, Franchisee shall promptly repair the same at its own cost and expense.

Franchisee shall immediately notify the Town Manager and the appropriate public safety agency (e.g., fire department) of any damage or injury to any Public Facilities caused by work authorized pursuant to the Franchise and without limiting the obligations of Franchisee under this Agreement, shall pay to the Town upon demand all costs incurred by the Town for the repair of such damage or injury, including, but not limited to, all costs incurred by the Town in purchasing water from alternative sources in the event of any interruption in Water Service.

If Franchisee shall default in this obligation, the Town may cure such default and shall charge the work to the Franchisee in accordance with the Town's then current standard rates for such work. However, prior to performing any such work the Town will give Franchisee written notice of the default and a period of thirty (30) days after receipt of such notice within which to cure the default. The Town shall extend the thirty-day period for a reasonable time if such default cannot reasonably be cured within such period and Franchisee has commenced and is diligently pursuing such cure. If Franchisee does not so cure the default, the Town will provide Franchisee with a written notice advising Franchisee of the expiration date of the cure period and stating the date (which date shall be no less than ten (10) business days after Franchisee's receipt of such notice) on which the Town intends to commence the work on Franchisee's behalf.

Notwithstanding the foregoing, if such default in the opinion of the Town threatens the public health or safety, the Town shall make a reasonable effort to provide Franchisee with telephonic notice and an opportunity to immediately cure such default. If the Town is unable to reasonably provide such notice or Franchisee fails to immediately cure the default, the Town may commence the cure on Franchisee's behalf. In any event, the Town shall immediately thereafter provide Franchisee with written notice of Town's performance of such emergency work.

Prior to commencing work on any street, alley, right-of-way, or public ground, Franchisee shall exercise reasonable judgment in order to avoid any inconvenience to the general public or the Town's work forces. Franchisee shall not impede the flow of traffic to any greater extent than is reasonably necessary in performing any maintenance, removal,

replacement, construction or repairs. Franchisee shall strictly abide by the permit or approval requirements, including those requirements relating to time limitations.

Franchisee is bound by all applicable lawfully enacted police power measures now or in the future adopted by the Town, in addition to the terms of this Agreement.

Section 6. Franchisee shall indemnify the Town, its officers, officials and employees (for purposes of this Section only, collectively the Town), and shall hold the Town harmless from liability on account of injury, death or damage to persons or property arising out of construction, improvement, removal, maintenance, repair or operations of its facilities. If suit shall be brought against the Town, either independently or jointly with Franchisee, Franchisee will defend, indemnify and hold the Town harmless in any such suit, at the cost of Franchisee. If a final judgment is obtained against the Town, either independently or jointly with Franchisee, Franchisee will pay the judgment, including all costs and attorney fees awarded by the court and will hold the Town harmless therefrom. The indemnity, however, shall not apply to claims for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting solely from the negligence or the willful misconduct or other intentionally wrongful acts or omissions of the Town, its agents or employees.

Section 7. If Franchisee does not comply with the terms of this Agreement within thirty (30) days after receipt of written notice of such non-compliance from the Town, the Town, at its option, may terminate the Franchise. However, such thirty-day period will be extended for an additional period of time as is reasonable under the circumstances if Franchisee's non-compliance cannot reasonably be cured within the

thirty-day period and if Franchisee has commenced a cure within such period and continues to diligently pursue such cure.

Section 8. If this Agreement is terminated for default, Franchisee shall convey to the Town all right, title and interest that Franchisee has in any streets, alleys, rights-of-way, and public ground. Franchisee shall bear the full costs of such conveyances. Additionally, Franchisee shall release any and all permits provided by the Town to construct its facilities.

Section 9. This Franchise is not assignable or transferable without the express written permission of the Town. However, Franchisee may assign, transfer or sublet its rights, without the consent of the Town, to any person or entity that controls, is controlled by or is under common control with the Franchisee, or pursuant to any financing, merger or reorganization of Franchisee resulting in an otherwise legal and statutorily acceptable successor, provided the Town is advised of the action within thirty (30) days from the date of assignment, transfer or sublet. Any successor(s) or assignees in whole or in part of Franchisee shall be bound by all of the terms and conditions of this Franchise and shall be subject to all provisions, obligations, stipulations and penalties here prescribed.

Section 10. The rights, privileges and duties here granted shall continue for five (5) years after the effective date. The effective date shall be the date of the Town's adoption of the required ordinance approving this Franchise. Prior to the expiration of this Agreement, the parties may make a good faith effort to negotiate and enter into a new Franchise Agreement upon reasonable terms and conditions. The Town retains the absolute right to purchase the facilities, pursuant to condemnation proceedings or otherwise pursuant to law for the fair market value of the facilities upon the expiration or

termination of this Agreement. Upon reasonable notice from the Town and unless released by the Town, Franchisee shall remove all its facilities from the streets, alleys and public places of the Town at the expense of Franchisee as soon as possible after the expiration, termination or abandonment of this Agreement, or by such reasonable time to be prescribed by the Town Council; provided, however, that if Franchisee has initiated negotiations with the Town for a successor agreement prior, or in response, to such notice, Franchisee may continue to maintain its existing facilities under the terms of this agreement while the parties are actively negotiating a successor agreement. If Franchisee does not initiate or actively maintain negotiations for a successor agreement and does not remove its facilities, ~~the~~ the Town may abandon such facilities without removal or upon approval by franchisee. [Approval by whom?]

Section 11. Upon the effective date hereof, Franchisee shall provide a letter of credit or enter into a bond in the sum of One Hundred Thousand Dollars (\$100,000.00), with good and sufficient surety, acceptable to the Town Attorney, conditioned to the effect that Franchisee will construct and maintain, or if constructed, will maintain, the facilities in good order throughout the term of the grant, and (subject to the cure rights set forth in Section 7 hereof) will comply with this Agreement in all respects. Subject to Section 13 hereof, this Agreement shall be void if Franchisee does not obtain (or has not obtained) an initial permit for installation of facilities within thirty-six (36) months after the date of Town's adoption of the approving ordinance. In the event of any noncompliance with any of the terms of this Agreement by Franchisee, the Town is caused to draw upon said bond or letter of credit thereby reducing the principal amount thereof, Franchisee shall

immediately cause the said bond or letter of credit to be restored to and maintained at the principal sum of \$100,000.00.

Section 12. This Agreement was accepted in the Commonwealth of Virginia and shall be governed by the laws thereof, which laws shall prevail in the event of any conflict of laws.

Section 13. Any notice to be given under this Agreement shall be mailed or delivered to the Town of Vienna, Attention: Town Manager, 127 Center Street, South, Vienna, Virginia 22180 and to Franchisee, XO Communications Services, Inc., 13865 Sunrise Valley Drive, Herndon, VA 20171, registered or certified mail, if mailed, return receipt requested, with postage prepaid, or by courier service, if delivered, with signed evidence of receipt; and shall be deemed delivered when received or refused by the addressee. The parties may change these addresses by like notice.

Section 14. Notwithstanding the foregoing, the parties and each of them shall be excused from performing hereunder so long as performance is prevented or delayed by *Force Majeure*.

XO Communications Services, Inc.

By: _____

Date of Acceptance

This _____ day of _____, 2008.

TOWN OF VIENNA, VIRGINIA

By: _____
M. Jane Seeman, Mayor

ATTEST:

Carol O. Orndorff, Clerk

APPROVED AS TO FORM:

Steven D. Briglia, Town Attorney

Agenda Item 8

Background material follows this separator page.

Town of Vienna

Council Agenda Communication

<u>DATE:</u> January 5, 2009	<u>SUBJECT:</u> COST SHARING FOR CONSTRUCTION OF ALLEYWAY IMPROVEMENTS BEHIND 101 CHURCH STREET, N.W.
<u>AGENDA ITEM:</u> 8	

Originating Department:	Town Manager
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EXPLANATION AND SUMMARY	
<p>At the September 8, 2008 meeting, the Town Council considered a request from Williams Management Company for reimbursement of one half of the cost of certain alleyway improvements behind the building constructed by the company at 101 Church Street, N.W. The Town Attorney and Town Manager were directed to meet with Mr. Robert Williams and his attorney to discuss the issue and to determine if the cost presented by Mr. Williams was fair and reasonable. Several meetings were held in the last several months and we also secured an estimate by our public improvement contractor to use as a guide to gauge the fairness of the original proposal.</p> <p>Mr. Williams is seeking one half of the cost of the alleyway improvements, or \$27,453.69 from the Town. During our research and as a result of our conversations with Mr. Williams, we have determined that the cost as proposed by Mr. Williams is fair and Mr. Williams has also agreed to maintain the public improvements for a period of two years from the date of his certificate of occupancy (April 1, 2008).</p>	

Documents Attached:	<ul style="list-style-type: none">- Agenda backup from September 8, 2008 Council Meeting.- Letter from Mr. Williams, dated December 12, 2008.
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Town Manager's Recommendation:	Approve payment of \$27,453.69 for alleyway improvements to Williams Management Company, Inc.
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Town Attorney's Review/Recommendation:	
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Purchasing Agent's Review/Recommendation:	N/A
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Cost and Financing:	\$27,453.69 from an account to be determined by the Director of Finance.
Account Number:	

Decision Needed by This Date:	As soon as possible.
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PROPOSED/SUGGESTED MOTION
<p>“I move for the (approval/disapproval) of the payment of \$27,453.69 for alleyway improvements behind 101 Church Street, N.W. to Williams Management Company, Inc., as the Town of Vienna’s 50% share for said improvements. The payment of the Town’s portion of the cost is contingent upon Williams Management Company, Inc. maintaining said improvements for a period of two years from April 1, 2008.”</p> <p style="text-align: center;"><i>OR</i></p> <p>Other action as determined by the Mayor and Town Council to be appropriate.</p>

DISPOSITION BY COUNCIL	
<input type="checkbox"/> Approved	<input type="checkbox"/> Deferred Until:
<input type="checkbox"/> Denied	<input type="checkbox"/> Other:
COMMENTS:	

Town of Vienna

Council Agenda Communication

DATE:
September 8, 2008

SUBJECT: REVIEW OF THE "SITE PLAN MODIFICATION REQUEST AND JUSTIFICATION STATEMENT" PERTAINING TO THE ALLEYWAY BEHIND 101 CHURCH STREET, NW, AND THE SHARING OF IMPROVEMENT COSTS BETWEEN THE TOWN OF VIENNA AND THE WILLIAMS MANAGEMENT COMPANY, INC., OWNER AND DEVELOPER OF THE NEW RETAIL BUILDING.

AGENDA ITEM:
8

Originating Department:

Mayor Seeman, Planning & Zoning

EXPLANATION AND SUMMARY

On November 7, 2005, the third of the "Church Street Vision" projects was approved for the property at 101 Church Street, NW. In the staff's commentary on the proposal, it was noted that the 8,174.6-square-foot subject parcel adjoined an existing 15-foot-wide alley that is a part of the 1926 Wilmar Place subdivision plat. On sheet 2 of 5 of the plan set, the "site plan modification request and justification" included a paragraph that states the following: *"To feature the type and quality of distinctive character in this development, the applicant/developer offers to work together with the Town in sharing construction costs associated with the proposed alleyway and screen wall as shown hereon. In addition, the applicant/owner will propose with this development to incur the cost to construct the brick paver sidewalk along Center Street, North."* (Staff note: this language appeared on a plan set dated September 2005 and was added after initial plans were submitted to and approved by the Fire Marshal's office.)

During review of this matter at the November 7, 2005 meeting of the Mayor and Town Council, discussion did occur with respect to this cost-sharing proposal. While the **site plan** for the 4,960-square-foot building and 8 on-site parking spaces, along with the associated **building elevations and sign plan** was approved by a unanimous vote of 7-0, there was neither subsequent action nor any additional motions with respect to the cost-sharing concept.

In the past several months, there has been both written and spoken communication between the property owner, his architect and members of the Town government with respect to the improvement of this alley way and partial reimbursement of associated expenses. In response, Mayor Seeman has requested preparation of this agenda item in an effort to reach a final determination on this matter. To assist in the Council's review thereof, the Town Clerk has provided verbatim minutes from that portion of the November 7, 2005 meeting.

Documents Attached:

Transcript of November 7, 2005 discussion of this matter.

Departmental Recommendation:

The Director of Planning & Zoning defers to the judgment of the Mayor and Town Council with respect to the issue of sharing the costs for the improvement of the alley way that adjoins the property at 101 Church Street, NW.

Town Manager's Recommendation:

Town Attorney's Review/Recommendation:	As part of the site plan approval the Town indicated it would "work together" with the developer in sharing the costs of developing the alley. However, the developer did not provide estimates or provide the Town with the opportunity to perform some of the work in-house or seek better prices. The Town Attorney would suggest authorizing the Town Manager to negotiate some contribution to the developer for the improvements to the alley.
---	--

Purchasing Agent's Review/Recommendation:	
--	--

Cost and Financing:	
Account Number:	

Decision Needed by This Date:	
--------------------------------------	--

PROPOSED/SUGGESTED MOTION
ACTION AS DETERMINED BY THE MAYOR AND TOWN COUNCIL TO BE APPROPRIATE.

DISPOSITION BY COUNCIL	
<input type="checkbox"/> Approved	<input type="checkbox"/> Deferred Until:
<input type="checkbox"/> Denied	<input type="checkbox"/> Other:
COMMENTS:	

File

Williams Management Company, Inc.
P.O. Box 3383
Merrifield, Virginia 22116
Phone (703) 280-2238

12 May 2008

Town of Vienna
127 Center Street S.
Vienna, VA 22180

Attention: Ms. Holly M. Chu, Director of Public Works

Dear Ms. Chu,

In the Town Council's approval of our reconstruction of 101 Church Street, NW in Vienna, [tax map# 38-4((2)), Lot 104] it was agreed that the development would include improving the alley and constructing a retaining/screening wall between the Town alley and the property of Mr. and Mrs. Denbow [tax map# 384 03 0045]. This approach resolved the problem of "what to do with the alley" between our property and that belonging to the Denbow's by coordinating and implementing a common solution. This solution was documented on Site Plan sheet C-2 dated September 2005 and approved by the Town through approval of our redevelopment plan at the Council meeting on 7 November 2005. In consideration of and approval of this plan, the Town agreed to share the costs of improvements to the alley and the retaining (screening) wall dividing the alley and Lot

This work is now complete and the direct costs for the shared efforts totals \$ 54,907.38. Therefore you are requested to approve and reimburse Williams Management Company, Inc. for 50% of these costs (\$27,453.69) and henceforth maintain the alley way, retaining wall and the modified walkway to the North of the Alley along Center Street N. A breakdown of these costs is given in the Enclosure. Copies of invoices for the costs are available should they be required by the Town.

Sincerely,



Robert T. Williams, President

Enclosure: Cost Breakdown

Cc: Mr. Gregory M Hembrey, AICP.
Director of Planning & Zoning and Zoning Administration

Enclosure to
Letter to Town of Vienna
From Williams Management
Company, Inc dated 6 May 2008

Retaining wall, sidewalk improvements and Alley paving and entrance cost summary

Alley sidewalk, entrance and curb & gutter	\$5732.30
Alley paving	\$6840.00
Alley paving preparation	\$1256.00
Cut and fill & gravel base costs	nc
 Sidewalk improvements	 \$3885.00
New sidewalk hand rail	\$1620.00
 Retaining wall foundations and below grade concrete	 \$18,019.50
Retaining wall masonry labor costs	\$8214.00
Retaining wall brick (less mortar/sand)	\$3409.00
Bicycle Rack	\$940.00
Supervision and general conditions	n/c
General Contractor OH & Profit (10% of above costs)	<u>\$4991.58</u>
TOTAL	\$54907.38
 50% by Town of Vienna	 \$27,453.69

Open presentation by Mr. Williams who gave a history of the site beginning with his ownership, and Byrd Engineering. Also stating that he sold the business in 1998 however, retained the ownership of the real estate. He then spoke on considerations given to the best use of the property. He presented information relative to the structure being less square footage than the previous structure; that parking will only have access to the rear of the building and will take place off of Center Street and not off of Church Street.

Mr. Patrick Kessler, GJB Engineering.” They wanted to keep in touch with the vision suggestions by proposing and eliminating a lot of the curb cut entrances along Church and Center Streets; they wanted to centralize the curb cuts into a safer single standard commercial entrances, the minimum required to get into the site safely. That entrance will be off of Center Street. They will also centralize the parking in the rear behind the building as viewed from Church Street and continue the travel-way between the adjoining properties to maintain that inter parcel access between properties to allow for that centralize egress point onto Center Street.

.....(infor re walkway and storm water runoff.)

Lastly, being familiar with the Vision, you will see that the alleyway behind our site is something that needs to be connected between all of these parcels, so we have presented to the town a proposal to construct this alleyway and share the cost of the alleyway to bring it between all of these parcels and at some point of time they will be connected as it was in the vision. Are there any other questions otherwise I will turn it over to Mr. Layer.

Mayor: Speaking of the alleyway, you say – so you’re going ahead and build your part of the alleyway now.

Kessler: That’s correct.

Mayor: At some point the others will all be connected. I wasn’t sure if you were going to put that into escrow to be developed , but it will be developed –

Kessler: Yes it will be developed.

Mayor: On the other side of those trees, between the trees that end the parking back there and the brick wall, is that correct.

Kessler: Yes.

Mayor: Okay, yes that’s - Councilwoman Cole has something.

Cole: I did have a couple of questions that area related to your relm. On the subject of that alleyway and the brickwall, it says , brick screen wall, will that be a retaining way, that will be structurally hold back the slope behind the alley.

Kessler: Well, there's a portion of that wall that will be retaining, but the screen wall is actually above that retaining wall, it will screen the uses from behind. So that will actually be mounted on top of the retaining wall.

Cole: So there's both – it just says screening wall.

Paul Layer: 317 Windover Ave, N.W., I'm the architect representing the project. The screen wall is per the Vision's requirements but the actual engineering of the retaining wall will have to occur after the completion of the working drawings; and will be completed into the set before it goes out for construction and for review by Fairfax County. Because the retaining portion – it starts out at the Center Street side with not much retaining and it goes into the parcel there is much more retaining because the slope changes as it goes in that direction. And eventually, if it's added to and connected on to the other parcels, of course that retaining portion will have to be varied there also.

Cole: Okay, and you all are taking on the construction of the retaining part of it, the engineering, construction, everything else the retaining part of that wall.

Layer: That's correct.

Briglia: Just for benefit, the retaining wall approval process in Fairfax County since that's a specified – a specific building permit that's required by the County, goes through what they call critical structures review at the County level, so although this is required by this kind of screen wall and retaining wall required as a function of the C-1B because there is residential on the other side, the engineering will be reviewed at what is called the critical structure review at the County level.

Cole: Thank you

Mayor: Let me stick with the retaining wall for a minute. Are you going to re-build the retaining wall that's there now.

Layer: The retaining wall that's there now is a wood structure

Mayor: Mr. Denbow, it backs up to his property and I know for years there wasn't sufficient retaining wall there, so that one doesn't have to go through any review process by the County cause you're not going to do anything with that one, is that correct.

Layer: No that one has to be removed because that wall is actually built into

Mayor: So it is going to be removed and rebuilt. Okay

Layer: Yes.

Mayor: That's what I wanted to get clear.

Kessler: Actually, a portion of that wall is in the alleyway, it will be within the travelway of the alleyway. To answer your question, the screening wall would go on top of the retaining wall.

Mayor: How far above

Kessler: Six feet above

Mayor: Oh I see, okay.

Lovelace: Relative to the Denbow property, how close would your construction be to his fence.

Kessler: We would have to locate by a license surveyor where his property corners are and that will be field located with points on line and we will not be able to encroach on his property with any part of that retaining wall.

Cole: Questioned if " the parking lot was connecting with parking lots down the street; as I recall shared parking was part of the Church Street Vision."

Kessler: As I mentioned, this travelway coming off of Center does connect to the next adjoining property at grade.

Cole: I was not sure if you mean't the alley or the parking lot.

Kessler: The parking lot; I'll between alleyway and parking lot.

Cole: Thank you.

Further questions and discussion occurred regarding the parking space sizes and location, noise levels of condensers, between Cole and Layer.

.....

Kelleher: Going back to the travel way connecting with the property to the west,; having seen a case where a shopping center owner put in bollards many years after the fact because he got mad at his next door neighbor, what is there anything recorded - any access easement or any assurance you know, to be recorded that 30 years in the future this will remain, at least from this property perspective, an open access.

Kessler: We anticipate recording an inter-parcel connection on this.

Kelleher: Wonderful, thank you so much.

Mayor: Okay, any other questions for Mr. ----

Lovelace: Since this is sort of open, Madam Mayor --

Mayor: Wait a minute, Councilman Verinder has something.

Verinder: Thank you. Questions for Mr. Williams, the property owner. Mr. Williams may I ask a question please. Visually, it certainly is an appealing an attractive facility, so much so that I believe the success will come quickly, as soon as its built. You have space for 4 different tenants, do you have any idea the type of tenants that you anticipate being in there, other than your daughter in law -- what kind of business does she have.

Williams: I don't want to speak for her totally, but it will be a home furnishing type retain outlet and we envision more or less a boutique type of mid to high scale operation in there. We don't envision offices, even though I guess they are permitted, we intend it to be retain and I hope that we can go that way.

Verinder: All right, my concern is success.

Williams: Thank you -- mind too.

Verinder: We have experience, this council has experience with dealing with success and the ability to house the cars that come with that success. And I know to the west of this property, the neighborhood, the adjoining property has -- there will be areas on the curb there to park, but there is no curbside parking on Center Street coming down -- the dentist office on the other side is private property; where would more than 8 cars go -- do you have a thought about that, Mr. Kessler, Mr. Layer.

Layer: On site or off site.

Verinder: I know where on site is going to be, lets talk about off site for me.

Layer: Well there is 2 in front of the building

Mayor: On the street

Layer: And I don't know what's anticipated for Center Street but I believe you could probably stripe that on the side if you wanted to get 2 more spaces.

Verinder: Coming down the hill there

Layer: I believe

Mayor: Well I think there is parking on there now - I think parking is allowed there now.

Layer: What I'm saying is that I think it should be investigated because at that particular point it appears wide enough to possibly -

Lovelace: I'm sure you meet your requirements

*(continued dialogue re parking and future success challenges - Layer's presentation re architectural features of the building.)

Under comments from the public.

Sobel: I'm the owner of the Clock Shop along with Mr. Husband Don, along with the property it sits on at 109 Church St., N.W., and I have a question regarding the driveway in the back. We've been approached before about having our front parking lot taken away and us building out a little bit to complete the vision and we've also been approached with the back. I have tenants in the building I cannot give up my parking, I have promised them parking, that is their parking and I have customers - a good deal of them come to us and cannot carry a clock because their older. I can't have them park a block away, they won't come to me then and I do want to stay in business in Vienna, I enjoy being here, we've been here a long time. It concerns me that it seems that we're being surrounded and being told yes, you going to give up your parking lot - I can't do that, I not being accusatory or argumentative, but I can't do that and stay in business, it won't work.

Mayor: We understand, and its strictly voluntary shared type of thing, yeh, no, we're not going to do that - no, no.

Sobel: It concerns me, I have so many customers, they have large items and they cannot carry them -

Mayor: Yes, I hear from so many people that say "oh the Clock Shop, we love to come to Vienna" so you not - no we're not going to do that.

Sobel: I thank you very much and we look forward to the building.

Mayor: Wait - some one else

Cole: I just want to clarify your clarification, when you say it is the shared parking is voluntary, once you take on the benefits of the Church Street vision, then you're committed to it, so you're not because you're not changing your building, so your parking is still your parking, but once another property takes on the advantages of the changed parking ratios then they have committed to shared parking, so should at some future date you ever decide than you wanted to change the building and take advantage of some of those other benefits then their parking and your parking would be shared, but not as you are now. I just wanted to say - since the Mayor had said that the shared parking is voluntary, for the people who have gone ahead with it

Mayor: For the vision

Cole: Its not voluntary, they must share, they have committed that they will share, but you are still in a position to put up the signs that say Clock Shop

Sobel: I have a contracts with - I don't look forward to the frustration that this is going to bring because I know that I'm going to have people who are going to park there anyway - and I'm going to have to go outside and be confrontational in some regards by saying please don't park in my lot. And if they disappear for dinner for three hours I'm not going to have anyway of finding out who it is except towing them away and I don't want to do that. So were running into a very worrisome time because they are potential customers to me and I don't want to aggravate them and I'm not out to aggravate people anyway, I mean it isn't my intention but it concerns me a lot

Mayor: You need to have the parking for

Sobel: A customer problem for us to have parking for my customers, and for my tenants and employees, so okay. I do look forward to Mr. Williams' building and he's been wonderful in keeping us informed.

Howard Uman: I'm Howard Uman 114 Wilmar Place and I don't have any concerns about the building or anything like that, um - the one open question that I have is, and it was mentioned which sparked my interest is that he has noted that the alleyway was planned to go all the way through, which I thought was cut off at the time that Steve Bukont built the parking lot in the rear of my house and so I just wanted to ensure that that was not part of the plan anymore.

Mayor: I don't know. Mr. Hembree do you know. I thought that was a town right-of-way through there - a town property.

Hembree: There's a fifteen foot alleyway the extends all the way from Center Street North over to Lawyers Street, N.W. as part of that 1926 Wilmar Place Plat. Mr. Bukont's building does not extend onto that alley at all. That fifteen foot alley extends - its going to be difficult ----- anyway because if you go back there, there's a forty-five slope

back there too, so its very difficult; but the alley exists and Mr. Bukont's building north parking is on that alley.

Robinson: That has intrigued me, that massive, massive retaining wall holding up Wilmar Place in back of Mr. Bukont's building

Uman: It doesn't do a good job

Robinson: Where does the alley go in relation to that.

Hembree: It's from that point fifteen feet on towards Mr. Uman's property and all the rest of those properties that are on Wilmar Place, N.W. So there's a fifteen foot alleyway there, there is also a fifteen foot alley between Wilmar Place, N.W., and Ayrhill Avenue, N.W. All part of that 1926 subdivision plat.

Robinson: An alley and an even more massive retaining wall to hold your property.

Mayor: If that comes to pass

Hembree: Right; yes there would be an engineering challenge, lets put it that way.

Robinson: Thank you.

Several more speakers re the development.

Councilwoman Robinson makes the motion for approval as recited in the Minutes.

Discussion on motion:

Cole: To Mr. Hembree, once the building is built, does the town have any authority over the number of tenants within the building or is that completely up to the landlord.

Hembree: I think you have heard them talk there will be four tenants, and I'm not sure how you would divide it up to get more than four unless you have some type of incubator space, probably we will not have to much control over that, now you do note there is this basement floor area, that has been broadcasted as storage, I intend to hold them to that, so that's one requirement that I will continue to hold onto.

Cole: Is that -- you hold them to that as part the site, part of the occupancy permit process.

Hembree: Part of the occupancy permit process and I'll point right back to the site plan and if we need to go further I 'll point back to what I just said two minutes ago.

Cole: Okay, because I am concerned that Mr. Layer mentioned this was just as how they were representing it – it could possibility be broken up more and the more tenants you get the more of a parking situation.

Hembree: That is correct, although I think the building lends itself to four tenants with the arrangements he has shown, he's been very careful in that regard.

Cole: - speaking more on the parking situation.

Vote on the Motion - unanimous



MEMORANDUM

DATE: JULY 2, 2008
TO: TOWN COUNCIL MEMBERS
FROM: MAYOR
RE: Church Street Vision

When the Church Street Vision Plan was adopted, it planned for the Town owned strip of land between Church Street and Wilmar Place to be an alley or access road to the rear of Church Street buildings.

Mr. Robert Williams, owner of the newly developed property at the corner of Church and Center Streets has finished that alley way. His plans, which the Council approved November 7, 2005, states 'To Feature the type of quality and distinctive character in this development, the applicant/developer offers to work together with the Town in sharing the construction costs associated with the proposed alley way and screen wall as shown hereon. In addition, the applicant/owner will propose with this development to incur the cost to construct the brick paver sidewalk along Centre Street, North.'

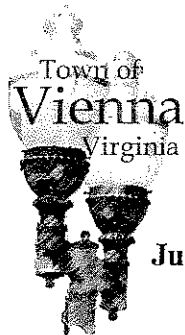
Mr. Williams has presented the Town with the enclosed letter and cost breakdown.

The Town Clerk has prepared the minutes of that meeting to hopefully clarify our vote.

The Council needs to consider Mr. Williams request and make decisions on the future of the alley way. Please read all the enclosed material and we can discuss this at our August 18 meeting.

The next Church Street property to be redeveloped (the Old Curly's building) will be purposing the same offer.

CC: The Town Manager
The Town Attorney
The Town Clerk



July 2, 2008

Williams Management Company, Inc.
P.O. Box 3383
Merrifield, Virginia 22116

RE: 101 Church Street NW


Dear Mr. Williams:

Please forgive my lateness in replying to your request for sharing the costs of improvements to the alley behind your building at 101 Church Street, NW.

We are researching the minutes of the November 7, 2005 Town Council meeting when the plan was approved. The Town Council will have to meet and consider your request.

I do not foresee that happening before our August 18th meeting.

Sincerely,


M. Jane Seeman
Mayor

CC: The Town Council
The Town Manager
The Town Attorney
The Town Clerk



Town of Vienna

Council Agenda Communication

<u>DATE:</u> November 7, 2005	<u>SUBJECT:</u> REQUEST FOR APPROVAL OF A SITE PLAN, BUILDING ELEVATIONS, MASTER SIGN PLAN AND CERTAIN SITE PLAN MODIFICATIONS, AND FOR THE DEVELOPMENT OF PROPERTY LOCATED AT 101 CHURCH STREET, NW, IN THE C-1B, PEDESTRIAN COMMERCIAL ZONING DISTRICT. FILED BY GJB ENGINEERING, INC., AND PAUL LAYER, AIA, AGENTS FOR BIRD ENGINEERING RESEARCH ASSOCIATES, INC., C/O WILLIAMS MANAGEMENT CO. INC., OWNERS.
<u>AGENDA ITEM:</u> 8	

Originating Department:	Planning & Zoning
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EXPLANATION AND SUMMARY

Commonly called "Vision Plan #3" by Planning & Zoning staff, this particular proposal would remove the existing building and surface parking area at 101 Church Street, NW, and replace it with a new two-story retail structure and 8 on-site parking spaces designed in accordance with the guidelines of the Church Street Vision concept. The building would present a staggered setback from Church Street, NW, and an at-grade parking area would be located to the rear and adjacent to the existing alley that is part of the 1926 Wilmar Place subdivision. According to submittal documents, a total of 4,960 square feet (gross including interior stairwell—see Sheets A1, A2 and A3 of the architectural plan set) would be located on the two floors that are above grade (as viewed from the Church Street, NW, frontage) and a storage area would be located on the basement floor.

The proposed building elevations, found on sheets A4, A5 and A6 of the plan set, will utilize a combination of brick and "prefinished composite materials" and a standing seam metal roof. Those portions of the front and right-side elevations closest to the intersection of Church Street, NW, and Center Street, North, will include a covered exterior walkway area on both floors and a ground-floor area for incidental outdoor seating associated with a retail establishment (such as a café perhaps). The proposed sign scheme would provide a series of façade and under-canopy signs developed in accordance with the Church Street Vision documents. An entire palette of colors has been prepared by the applicant (see sheet A7), and a model of the proposal will be provided for inspection and review at the meeting.

The existing parcel encloses 8,174.6 square feet (0.1755 acres) and ranges from 68.28 to 75.63 feet in width and from 110.4 to 117.22 feet in depth. The two-story retail building (maximum height of 35 feet as measured from the Church Street, NW, elevation) will span nearly all of the width of the subject property and provide some 54 feet of depth at its widest point (next to the Clock Shop). Screening from the existing public alley will be provided in the form of 5 little leaf linden trees and the planter scheme will be extended around the street corner onto the Center Street, North, frontage. The brick sidewalk and entrances will also be extended—by the developer—along Center Street, North, to the northernmost property line. Finally, a brick screen wall between the alley and the Denbow property will further assist in screening the subject parcel from adjoining residentially-zoned parcels.

As part of the "Vision Process" all plans are first reviewed by the Town Staff and all site plan modifications are approved by the Mayor and Town Council without the need for prior recommendations from the Planning Commission and Board of Architectural Review. Our analysis indicates that the building and proposed number of parking spaces complies with the requirements as set forth in §§ 18-87.5 and 18-87.6 of the Town Code [staff note: the proposed "loading space" would temporarily block two or three spaces in the rear on-site parking area]. If not already completed, a small arc or triangle will be dedicated to the Town at the intersection of the two streets to ensure that the existing streetscape and plantings are fully within the Town's right-of-way. Staff also notes that letters were sent to adjoining property owners upon receipt of these plans and we have not received any comments up to the time of the preparation of this communication sheet.

Documents Attached:

12 copies of architectural plans

**Departmental
Recommendation:**

The staff of the Department of Planning & Zoning has performed a detailed review of these plans and is enthusiastic about the proposed development concept for the subject property.

The staff of the Department of Public Works has reviewed the subject plans and notes that they are acceptable as submitted. Because of an increase in pervious area, post-development runoff will be reduced from pre-development runoff by 0.001 cubic feet per second. Finally, the plans meet the requirements of the Erosion and Sediment Control Plan Review Checklist as provided by the Virginia Department of Conservation and Recreation.

**Town Manager's
Recommendation:**

**Town Attorney's
Review/Recommendation:**

As part of the Church Street Vision zoning, the Town Council may approve this application if it deems the application in conformity with the provisions of our C-1B zone. Staff review is positive.

Cost and Financing:

Account Number:

Decision Needed by This Date:

PROPOSED/SUGGESTED MOTION

"I move for the (approval/disapproval) of the requested Site Plan, Building Elevations, Master Sign Plan and certain Site Plan Modifications, all in accordance with the provisions of Sections 18-87.4 through 18-87.6 of the Town Code, and for the development of property located at 101 Church Street, NW, in the C-1B, Pedestrian commercial zoning district, as filed by GJB Engineering, Inc., and Paul Layer, AIA, agents for Bird Engineering Research Associates, Inc., C/O Williams Management Co. Inc., owners."

OR

Such action as deemed appropriate by the Council.

DISPOSITION BY COUNCIL

☒ Approved

☐ Deferred Until:

☐ Denied

☐ Other:

COMMENTS:

Mo Robinson
2nd Polychrome
Carried unanimously - Follow

at 10:00 A.M., she has invited all business and property owners in the 100 Blocks of Church Street and Maple Avenue, East, along with those located on Center Street to come to Town Hall and discuss the Town Green plan and the potential parking impact; parking plan and/or shared parking concept.

PROPOSALS FOR ADDITIONAL ITEMS TO THE AGENDA

None

PUBLIC HEARING ON AN APPEAL FILED BY VAMOS DEVELOPMENT, LLC., OWNER OF THE PROPERTY AT 129 PLEASANT STREET, N.W. THROUGH MICHAEL COVEL, FROM A DECISION OF THE WINDOVER HEIGHTS BOARD OF REVIEW ON OCTOBER 5, 2005 GRANTING A CERTIFICATE OF APPROPRIATENESS ON AN APPLICATION FILED BY JASON AND VIRGINIA CHILD, OWNERS OF THE PROPERTY AT 324 WEST STREET, N.W.

See Official Minutes attached.

PUBLIC HEARING ON A PROPOSED ORDINANCE TO AMEND THE TOWN CODE, CHAPTER 6, FINANCE AND TAXATION, ARTICLE 3, CIGARETTE TAXATION, SECTION 6-16, DEFINITIONS, THROUGH SECTION 6-31, SEVERABILITY, INCLUSIVE.

See Official Minutes attached.

ADDITIONAL ARCHITECTURAL AND ENGINEERING SERVICES FOR THE TOWN GREEN; FOUNTAIN DESIGN, MILL STREET WIDENING, WEST SIDE PARKING LOT AND DEMOLITION SPECIFICATIONS AND PLANS.

2. It was moved for approval of additional services for the Design and Construction Management of the Vienna Town Green Project from Lardner/Klein Landscape Architects, P.C. in an amount not to exceed \$45,496.70 from Account #370710-48801

Motion: Polychrones
Second: Kelleher
Carried unanimously - Poll vote

Voting Aye: Cole, Kelleher, Lovelace, Polychrones, Robinson, Verinder, Mayor Seeman

REQUEST FOR APPROVAL OF A SITE PLAN, BUILDING ELEVATIONS, MASTER SIGN PLAN AND CERTAIN SITE PLAN MODIFICATIONS, AND FOR THE DEVELOPMENT OF THE PROPERTY LOCATED AT 101 CHURCH STREET, N.W., IN THE C-1B PEDESTRIAN COMMERCIAL ZONING DISTRICT, FILED BY GJB ENGINEERING, INC., AND PAUL LAYER, AIA, AGENTS FOR BIRD ENGINEERING RESEARCH ASSOCIATES INC., C/O WILLIAMS MANAGEMENT CO., INC., OWNERS.

Mayor Seeman indicated that she was placing into the record a letter from Dr. Thomas, whose business is located across the street from the site wherein, he indicated he was in favor of the development.

Mr. Robert T. Williams, owner of the property and co-

founder of Bird Engineering, Inc., was present and spoke of purchasing the property and establishing the business in 1960, indicating that he has occupied the building and a business owner in the Town of Vienna for over forty-four (44) years. He stated that in 1998 he sold the engineering operations to Technology Services Corporation, who remained in the building until last November; he did however, retain ownership of the real estate and changed the name to Williams Management, Inc. After November, their consideration has been focused on how to best utilize the property and found they had three options; continue to use the non-conforming site as an out of date office building, to try and remodel and upgrade the current building to conform to current zoning, or to build a new structure which conforms to the Town's Church Street Vision. Mr. Williams stated they have chosen to support the Town in furthering the efforts to achieve the vision and change the primary use to that consistent with the pedestrian-friendly concept. He further stated they have chosen to diminish the square footage of the footprint which will encourage the pedestrian-friendly concept and provide for additional safety factors at the front of the building and on the side; there will be only one ingress/egress for parking which will be from Center Street rather than Church Street. The existing building will be vacant at the end of the year and it is their plan to begin demolition and construction as soon as weather and materials availability permit. Mr. William concluded by stating he plans on continuing his family ties to the Town of Vienna by personally managing the property and by retaining one of the retail spaces for use by his daughter-in-law.

Mr. Patrick Kessler, GJB Engineering, addressed Council and spoke on the design development in keeping with the Vision concept and by eliminating curb-cut entrances along Church and Center Streets; those curb-cuts will be centralized by one entrance off of Center Street; parking will be located in the rear of the building. By eliminating the large curb-cuts they have increased the walkway size and configuration on both Church and Center Streets. He spoke of the proposed increase in on-site landscaping which will enhance the building; and in addition, there will be a negligible decrease of the on-site impervious area and storm water runoff from the site. Mr. Kessler spoke of a proposal to construct an alleyway and share the cost to bring it between all the parcels; and at some point of time it could be connected.

Mayor Seeman clarified with Mr. Kessler that they intend to construct their portion of the alleyway at this time, and at some future point it could be connected if owners agree.

Councilwoman Cole discussed with Mr. Kessler the proposed alley-way, screening wall and retaining wall.

Mr. Paul Layer, 317 Windover Avenue, N.W., Architect, addressed Council and clarified the integration of the retaining wall and the screening wall. Thereafter, Mr. Layer presented a mock-up model of the proposed building for benefit of those present. He spoke of the various architectural features, streetscape and proposed landscaping. Upon question of the Mayor, Mr. Layer clarified that the retaining wall would be rebuilt as part of the project and thereafter, pointed out on the plan, the location of both the screening wall, retaining wall, and alley-way.

Councilman Lovelace questioned how close the construction would come to the Denbow property fence. Mr. Kessler indicated they would have to locate by survey where the property corners are located and would be field located with points on line and they would not encroach on any part of the Denbow property with the retaining wall.

Councilwoman Cole discussed the parking lot configuration and the possible connection with other business locations. They further discussed the size and location of the compact parking spaces, regular space configurations, handicapped spaces; and location of the condensers.

Councilman Lovelace discussed the sidewalk dimensions and location of proposed planters.

Councilwoman Kelleher discussed the proposed travelway and inquired if there was anyway that it could be placed in the record or recorded, that the travelway would remain as an open access. Mr. Kessler indicated they anticipate recording an open parcel connection.

Councilman Verinder discussed with Mr. Williams the number of tenants anticipated and/or the type of business tenants. Mr. Williams indicated that he envisioned the boutique type of business entities in lieu of offices; they intend it to be retail. Councilman Verinder expressed his concern relative to success and the ability to house the cars which come with success. He thereafter, discussed with Mr. Layer the various parking locations, with Mr. Layer indicating there were two in front of the building on the street, with additional parking on Center Street along the side.

Upon question of Councilwoman Robinson relative to storm water runoff, Mr. Layer stated there would be less runoff than currently experienced.

Mr. Layer at this time presented an overview of the design features, location of the elevator; also indicating the basement would be utilized only for storage; building materials and colors; entrance way locations; and proposed landscaping locations. He further addressed the sidewalk dimensions in response to questions of Councilman Lovelace.

Mayor Seeman called for anyone in the audience desiring to speak on the proposed project.

Mr. Steinkous, 209 Center Street, N.W., stated he was also speaking for the property owner at 210 Center Street, N.W., indicating their approval of the plan. He thanked Mr. Williams for his "good neighbor" approach over the years and for this project.

Mr. Rich Denbow, 206 Center Street, N.W., spoke in support of the project. He did express concern relative to the elevation of the sidewalk on Center Street and of the solution which had been reached with the Architect, Engineering and Mr. Williams.

Upon question of Councilman Polychrones regarding the sidewalk elevation problem, expressed concern relative to

access by someone in a wheelchair, Mr. Layer indicated that the road was very steep and that it would not meet a 1 in 12 slope on the sidewalk; what they have designed is a series of wide step landings; it cannot be a bona-fide handicapped sidewalk; that the sidewalk on-site around the building is a lower slope and safer.

Mrs. Reardon, President of the Church Street Condo Association, spoke and stated they felt the design of the building was lovely; their only concern was relative to people utilizing their parking spaces.

Mrs. Gail Sobel, 109 Church Street, Owner of The Clock Shop, complimented Mr. Williams on his efforts to keep all the business owners informed regarding the project. Her only concern was relative to parking issues and the possible loss of parking spaces on her lot. Mayor Seeman assured Mrs. Sobel there would be no elimination of parking area on her property.

Mr. Howard Uman, 114 Wilmar Place, N.W., expressed concern relative to the potential alley-way with Mr. Hembree, Director of Planning & Zoning, who addressed the existing fifteen foot right-of-way location from Center Street to Lawyers Road, which is part of the 1926 Wilmar Place Plat; and further discussed the retaining wall location.

Mr. Mark Eswine, 105 Wilmar Place, N.W., indicated he was generally in favor of the project; however, he did have concerns relative to overflow parking on Wilmar Place. He stated that this occurs at the present time during the Town festivals and would like these issues resolved.

Ms. Nancy Butler, Resident at Church Street Condo's, questioned if the Town would consider purchasing the lot next to the condo's for parking. Mayor Seeman indicated this aspect was being explored by the Town.

Councilwoman Robinson expressed the Town's appreciation to Mr. Williams for being a responsive good citizen to the Town over the years and for his efforts and consideration of both the residential and commercial community in this project.

3. It was moved for approval of the requested Site Plan, Building Elevations, Master Sign Plan and certain Site Plan Modifications, all in accordance with the provisions of Section 18-87.4 through 18-87.6 of the Town Code, and for the development of property located at 101 Church Street, N.W., in the C-1B Pedestrian commercial zoning district as filed by GJB Engineering, Inc., and Paul Layer, AIA, agents for Bird Engineering Research Associates, Inc., c/o Williams Management Co., Inc., owners.

Motion: Robinson
Second: Polychrones
Carried unanimously - Poll vote

Voting Aye: Cole, Kelleher, Lovelace, Polychrones, Robinson,
Verinder, Mayor Seeman

Williams Management Company, Inc.
P.O.Box 3383
Merrifield, Virginia 22116
Phone (703) 280-2238

RECEIVED
JUL 09 REC'D

TM

Note to: Mayor Ms. M. Jane Seeman

From: Robert T. Williams

I appreciate the up date on cost sharing of the alley improvements behind our new building at 101 Church Street NW.

The August time frame is fine.

By the way the operating entity for the building is "101 Church Street LLC" which is a single member LLC with WMC as the single member.

Thank you for your interest and attention in having this matter eresolved.

Willi

Willi (Robert T. Williams)

copy

***Williams Management Company, Inc.
P.O.Box 3383
Merrifield, Virginia 22116
Phone (703) 280-2238***

12 December 2008

Town of Vienna
127 Center Street S.
Vienna, Virginia 22180

Attention: Mr. John H. Schoeberlein, Town Manager

Subject: Payment of Town's share of improvements to Alley behind 101 Church Street, NW

Reference: Telephone conversation on 11 December 2008 between Mr. Schoeberlein and the undersigned

Dear Mr. Schoeberlein,

I am pleased, and hereby agree to maintain the improved alley behind 101 Church Street, NW for a period of two years from 1 April 2008 through 1 April 2010 as part of the consideration for the Town's payment of \$27,453.69 for the Town's share of the improvements made to the alley as outlined in red on the "as built" site plan delivered to you on 9 December 2008. I understand that you will take this to the Town Council for approval at the next available opportunity.

I thank the Town Council and Staff for their support of our rebuilding of 101 Church Street in conformance with the Town's Church Street Vision. We hope and plan to be supportive of fulfillment of this Vision.

Sincerely,



Robert T. Williams
President

Agenda Item 9

Background material follows this separator page.

Town of Vienna

Council Agenda Communication

<u>DATE</u> January 5, 2009	<u>SUBJECT:</u> AUTHORIZATION TO EXPEND APPROVED CAPITAL IMPROVEMENT PROJECT (CIP) FUNDS, ACCOUNT NUMBERS 345403-43801, 370408-43801 AND 370410-43801, FOR THE TOWN OF VIENNA'S SHARE OF THE BEULAH ROAD IMPROVEMENT PROJECT FOR 70% OF BETTERMENT COSTS TO VIRGINIA DEPARTMENT OF TRANSPORTATION, AND APPROVAL OF THE TRANSFER OF THE BALANCE FROM THE 2006 DEBT ISSUE CONTINGENCY FUND TO CIP ACCOUNT NUMBER 370408-43801.
<u>AGENDA ITEM</u> 9	

Originating Department:	Department of Public Works
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EXPLANATION AND SUMMARY

On May 24, 2007 the agreement was signed between the Town of Vienna and the Commonwealth of Virginia, Department of Transportation for "Adjustment of Waterline and Sanitary Sewer Facilities."

The Department of Public Works requests Council's authorization to approve the 70% Betterment Costs for the Beulah Road Improvement Project. VDOT provided the best estimate of \$222,127.24. The Director of Finance recommends requesting additional funds in the amount of \$10,872.76 to cover unanticipated expenses from VDOT.

Funding is to come from approved CIP funds, account numbers 345403-43801 for \$10,909.00, 370408-43801 for \$75,676.00 and 370410-43801 for \$56,818.00 for a total of \$143,403.00. The remaining balance of \$89,597.00 is to come from the 2006 Debt Issue Contingency with an estimated final cost of \$233,000.00. The Department of Public Works also requests approval of the transfer from the 2006 Debt Issue Contingency to CIP account number 370408-43801.

Documents Attached:	<ol style="list-style-type: none">1. Agreement, Project Construction, Operation, and Maintenance between the Town of Vienna and VDOT.2. Email from Richard Burke, VDOT dated May 29, 2008 with Town's Betterment 70% costs.
----------------------------	--

Departmental Recommendation:	The Director of Public Works recommends authorization to approve the 70% Betterment Costs for the Beulah Road Improvement Project to expend approved CIP funds, Account Numbers 345403-43801, 370408-43801 and 370410-43801 with an estimated cost of \$143,403.00 and approve the transfer of \$89,597.00 from the 2006 Debt Issue Contingency to CIP account number 370408-43801.
-------------------------------------	---

Town Manager's Recommendation:	Concur
---------------------------------------	--------

Town Attorney's Review/Recommendation:	The Town of Vienna, referred to as the "Utility" in the VDOT agreement, agreed to share the costs of utility work on the Beulah Road Project whereby the Town agreed to pay 70% of the improvement costs.
---	---

Purchasing Agent's Review/Recommendation:	N/A
--	-----

Cost and Financing:	\$233,000.00
Account Number:	CIP Fund, Account No. 345403-43801, 370408-43801 and 370408-43801 and 2006 Debt Issue Contingency account.

Decision Needed by This Date:	January 5, 2009
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PROPOSED/SUGGESTED MOTION

"I move for **(approval/disapproval)** to expend \$143,403.00 in approved Capital Improvement Project (CIP) funds from account numbers 345403-43801, 370408-43801 and 370410-43801, and \$89,597.00 from the 2006 Debt Issue Contingency account for the 70% Betterment Costs for Beulah Road, with an estimated final cost of \$233,000.00."

"I further move for **(approval/disapproval)** of the transfer of \$89,597.00 from the 2006 Debt Issue Contingency to CIP account number 370408-43801."

DISPOSITION BY COUNCIL

☐ Approved

☐ Deferred Until:

☐ Denied

☐ Other:

COMMENTS:

AGREEMENT
between
TOWN OF VIENNA
and
COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION
for
ADJUSTMENT OF WATERLINE AND SANITARY SEWER FACILITIES

THIS AGREEMENT, made and entered into as of the 24th day of May, 2007,
by and between the TOWN OF VIENNA (hereinafter called UTILITY), and the
COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION, (hereinafter
called the STATE), acting by its Commissioner:

WITNESSETH

WHEREAS, the STATE is proposing to construct a section of highway designated as,
Beulah Rd., Project: U000-153-107, C-502, (PPMS# 64711) which will necessitate changes in
the UTILITY'S water and sanitary sewer facilities: and,

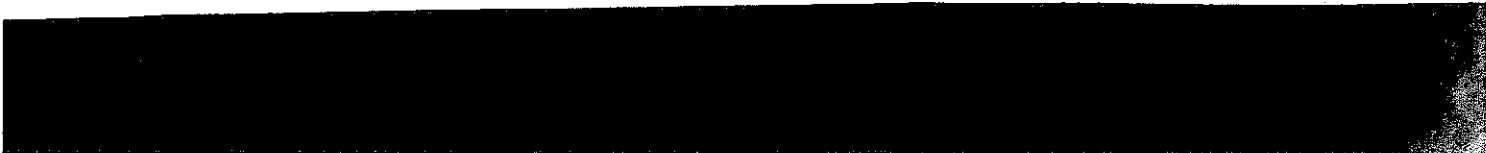
WHEREAS, the STATE and UTILITY wish to agree upon the terms and conditions
under which the necessary changes will be made as hereinafter set forth:

NOW THEREFORE, for and in consideration of the premises and of the mutual
covenants herein contained, the parties hereto agree as follows:

SECTION I

(a) It will be to the best interest of the STATE and the UTILITY to have the
adjustment of these water and sanitary sewer facilities included in the highway contract to be
adjusted by the highway contractor.

(b) The STATE through its highway contractor, will relocate and adjust the
UTILITY'S water and sanitary sewer facilities in accordance with attached plans and the
STATE'S Road and Bridge Specifications; said plans being identified as twelve (12) one-half
size plans sheets numbered 10(1) through 10(12) of the STATE'S construction plans for Project:
U000-153-107, C-502, as attached.



SECTION II

(a) It has been determined that the project is responsible for bearing 30% of the cost of the water and sanitary sewer adjustments indicated in SECTION I (b).

(b) It has been determined that the UTILITY is responsible for bearing 70% of the cost of the water and sanitary sewer adjustments indicated in SECTION I (b). This percentage accounts for betterment of existing water and sanitary sewer facilities. The UTILITY will reimburse the STATE for these items included in the highway contract. Reimbursement will be based on the unit prices in the highway contract, awarded by the STATE, plus the applicable construction engineering cost.

SECTION III

(a) The water and sanitary sewer facilities of the UTILITY erected under such a permit shall be and remain the property of the UTILITY, no charge shall at any time be made for the use of the STATE right of way occupied by the UTILITY, or for the privilege of constructing, maintaining and operating said water and sanitary sewer facilities. Any construction or maintenance operations to be performed by the UTILITY within the STATE right of way must have prior approval of the STATE. When emergency conditions require immediate maintenance operations by the UTILITY, such operations may be performed by the UTILITY without advance notice to the STATE. The UTILITY will, to the best of its ability, perform all operations within the STATE right of way in a manner which will reduce to a minimum, interference to the flow of traffic and disturbance of the roadway, and which will provide a maximum of safety to traffic and to the UTILITY'S forces.

(b) In the event the STATE should request at any time hereafter that the facilities which were adjusted onto STATE right of way at STATE expense be again adjusted when they are on STATE right of way, the STATE will pay the UTILITY the applicable costs incurred by the UTILITY, including the cost of securing any necessary easements.

(c) In the event the STATE should request at any time hereafter that the facilities which were not adjusted, hereunder, but for which the UTILITY'S rights of way were relinquished, be adjusted, the STATE will pay the UTILITY the applicable costs incurred by the UTILITY, including the cost of securing any necessary easements.

SECTION IV

(a) The UTILITY will perform certain incidental work in conjunction with the utility work included in the highway contract, such as operation of all valves and will also inspect the utility relocation work with its own forces, reporting through the Transportation Resident Engineer, and upon completion will certify to the STATE that the work included in the highway contract was performed in a satisfactory manner.

In WITNESS WHEREOF, each party has caused this agreement to be executed in duplicate in its name and on its behalf by its duly authorized officer as of the day and year first written.

In the presence of:

TOWN OF VIENNA

Carol [Signature]
As to the Town of Vienna

By [Signature]
Title: Town MGR.

In the presence of:

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

[Signature]
As to the Commonwealth

By [Signature]
Chief Engineer

100% Submission Cost Estimate

Date: June 5, 2006

Revised:

Page 1 of 1

[illegible]

Jester, Sandy

From: Burke, Richard 'Dic' W. II [Richard.Burke@VDOT.Virginia.gov]
Sent: Thursday, May 29, 2008 3:54 PM
To: Jester, Sandy; Babra, Jitender S.
Cc: Yusufoglu, Eldar S.
Subject: RE: Betterment Cost for Beulah Rd
Attachments: RE: Beulah Road and Branch Road

Sandy --

I believe in the attached the figure is around \$223K, see attached...

- **Betterment**, I have received documentation from our CN staff that the actual costs for these improvements were \$319,459.75. Therefore, based on the utility agreement with the Town, your match is 70% or \$223,621.03.

Jay --

Can you call Sandy and confirm?

Thanks

Dic

From: Jester, Sandy [mailto:SJester@viennava.gov]
Sent: Tuesday, May 27, 2008 2:46 PM
To: Burke, Richard 'Dic' W. II
Subject: Betterment Cost for Beulah Rd

5/27/08

Dick

As far as the Betterment costs for Beulah Rd do you know if the total that I have of \$221,817.24 thru Progress Bill #12 is the grand total we are going to owe or will it be more? If so I need to know how much more so I can get approvals. Thanks.

Sandy Jester
 Public Works Assistant
 Town of Vienna
 127 Center St S
 Vienna, VA 22180
 (703)255-6383
 (703)255-5722 FAX
sjester@viennava.gov

*** VIRGINIA FREEDOM OF INFORMATION NOTICE ***

NOTICE: This e-mail and any of its attachments may constitute a public record under the Virginia Freedom of Information Act. Accordingly, the sender and/or recipient listed above may be required to produce this e-mail and any of its attachments to any requestor unless certain limited and very specific exemptions are applicable.

Town of Vienna, Virginia 2008

6/3/2008

Agenda Item 10

Background material follows this separator page.

Town of Vienna

Council Agenda Communication

<p><u>DATE:</u> January 5, 2009</p>	<p><u>SUBJECT:</u> REQUEST AUTHORIZATION TO RIDE COMMONWEALTH OF VIRGINIA CONTRACT NUMBER PF-34305, FOR A 2009 COMPACT PICKUP TRUCK, REGULAR CAB 4x2 FROM R.K. CHEVROLET, INC. UNDER THE APPROVED TOWN OF VIENNA VEHICLE REPLACEMENT PROGRAM (VRP) FOR THE WATER AND SEWER DIVISION, WITH AN ESTIMATED COST OF \$12,576.00.</p>
<p><u>AGENDA ITEM:</u> 10</p>	

Originating Department:	Department of Public Works
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EXPLANATION AND SUMMARY
<p>The Commonwealth of Virginia awarded contract number PF-34305 for a 2009 Compact Pickup Truck, Regular Cab 4x2. The Department of Public Works is requesting to purchase one (1) 2009 Compact Pickup Truck, Regular Cab 4x2; Summit White, interior color of Light Cashmere (see attached picture) from R.K. Chevrolet Inc., 2661 Virginia Beach Blvd., Virginia Beach, VA 23452 as listed in the Town of Vienna VRP under the Department of Public Works, Water & Sewer Division on page 11, with an estimated cost of \$12,576.00.</p> <p>The basic specifications for the Commonwealth of VA. contract call for a regular cab with a 6 foot bed, 4,000 pound Gross Vehicle Weight Rating (GVWR) with a 4 cylinder engine, automatic transmission, power steering with adjustable tilt-wheel, factory installed air conditioning, driver and passenger air bags, and an AM/FM stereo. The specifications for this unit do not specify any power accessories such as power windows, power door locks, power seat, etc. Added optional equipment is an under the rail bed liner.</p> <p>This replacement is listed on page 11 of the VRP for FY 2008-2009 for vehicle number 43. The VRP estimated cost for this vehicle is \$19,643.00. The contract cost for this vehicle is \$12,576.00.</p>

Documents Attached:	<ol style="list-style-type: none"> 1. Memoranda from the Superintendent of Vehicle Maintenance. 2. Copy of VRP, page 11. 3. Picture of Truck with Aerial Device. 4. Copy of Commonwealth of VA contract PF-34305 for 2009 Compact Pickup Truck, Regular Cab 4x2.
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Departmental Recommendation:	<p>The Director of Public Works recommends approval to ride Commonwealth of VA contract PF-34305 for one 2009 Compact Pickup Truck, Regular Cab 4x2 with R.K. Chevrolet Inc., 2661 Virginia Beach Blvd., Virginia Beach, VA to replace vehicle number 43 with an estimated cost of \$12,576.00.</p>
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Town Manager's Recommendation:	Concur.
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Town Attorney's Review/Recommendation:	The Town may ride the State contract for this purchase or solicit bids in Council's discretion.
---	---

Purchasing Agent's Review/Recommendation:	Contract is current and rideable.
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Cost and Financing:	\$12,576.00
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Account Number:	General Fund Account number 10912-48308.
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Decision Needed by This Date:	January 5, 2009
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PROPOSED/SUGGESTED MOTION	
<p>"I move for (approval/disapproval) to ride Commonwealth of Virginia contract PF-34305 for the purchase of one 2009 Compact Pickup Truck, Regular Cab 4x2 from R.K. Chevrolet, Inc. of Virginia Beach, under the Vehicle Replacement Program, to replace vehicle number 43 in an estimated amount of \$12,576.00."</p>	

DISPOSITION BY COUNCIL	
<input type="checkbox"/> Approved	<input type="checkbox"/> Deferred Until:
<input type="checkbox"/> Denied	<input type="checkbox"/> Other:
COMMENTS:	

Memorandum

Date: December 16, 2008
To: Director of Public Works
From: Vehicle & Equip. Maint. Supt. *RS*
RE: 2009 Compact Pickup Truck

R.K. Chevrolet has been awarded the contract for compact pickup trucks for the 2009 model year. The contract number is PF-34305. R.K. Chevrolet is located at 2661 Va. Beach Blvd., Va. Beach, Virginia 23452. I recommend we purchase one of these units to replace vehicle number 43 as listed in the Town of Vienna ***Vehicle Replacement Program*** under the Department of Public Works, Water & Sewer on page 11.

I would recommend this vehicle be order with the following option:

Base Unit Cost, CS15403	\$12,288.00
Bed Liner, Under the Rail, R6G	\$135.00
Service Manual with Wiring Diagrams, S/T MAN	\$153.00
Total Cost.....	\$12,576.00

This unit should be ordered with an exterior color of Summit White and an interior color of Light Cashmere.

The ***Vehicle Replacement Program*** estimation cost for this unit is **\$19,643.00**.

Attached is a copy of the notice of award.

CC: Public Works Assistant, Purchasing Agent

DCB/mbp

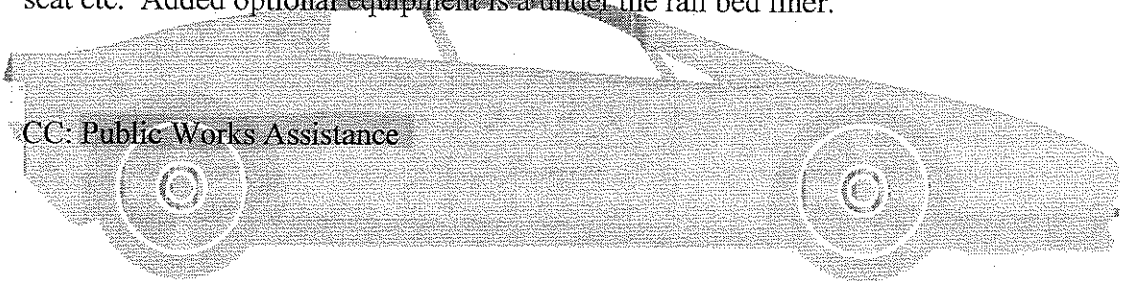
Vehicle Maintenance Division

Memorandum

Date: December 16, 2008
To: Director of Public Works
From: Vehicle & Equip. Maint. Supt. *AK*
RE: Summary Compact Pickup

The basic items specified by state bid #PF-34305 for a 4X2 compact pickup truck. Their specifications call for a regular cab with a 6 foot bed, 4,000 pound Gross Vehicle Weight Rating (GVWR) with a 4 cylinder engine, automatic transmission, power steering with adjustable tilt-wheel, factory installed air conditioning, driver and passenger air bags, and an AM/FM stereo. The specifications for this unit do not specify any power accessories such as power windows, power door locks, power seat etc. Added optional equipment is a under the rail bed liner.

CC: Public Works Assistance



Water Sewer Division

Operations and Maintenance															
Vehicle #	Description	Age	Useful Life	Mileage	Cost Per Mile	FYE 2008	FYE 2009	FYE 2010	FYE 2011	FYE 2012	FYE 2013	FYE 2014	FYE 2015	FYE 2016	FYE 2017
30	1 Ton	6	12 years	28,258	0.5119							47408	58548		
31	Step Van	5	12 years	16,792	0.6681					44349					
35	1 Ton	8	12 years	40,423	0.4567										
47	Pickup	8	10 years	48,488	0.4070			20430							
49	Sewer Jet	3	15 years	2,747	2.2051										
66	Sewer Rodder*	13	12 years	66,781	0.3998										
67	TV Van	4	14 years	6,575	0.7437							23886			
69	Pickup	4	10 years	17,293	0.2430										
86	2 Ton	2	12 years	1,906	1.1348										
89	2 Ton	11	12 years	60,621	0.4954		65222								22421
216	Air Comp.	5	14 years	470**	8.5755									111801	
260	Backhoe	4	12 years	1,932**	2.8429									48025	
277	Roller	4	12 years	75**	11.8419									7720	
278	Trailer	4	12 years												
Meter Operations															
Vehicle #	Description	Age	Useful Life	Mileage	Cost Per Mile	FYE 2008	FYE 2009	FYE 2010	FYE 2011	FYE 2012	FYE 2013	FYE 2014	FYE 2015	FYE 2016	FYE 2017
40	Pickup	4	6 years	62,165	0.2250			20430						26830	
43	Pickup	9	10 years	57,798	0.2726		19643						25553		
44	Pickup	3	10 years	18,026	0.3239										22962
46	Pickup	1	10 years	2	-										
Water & Sewer Totals						0	84,865	40,860	0	44,349	0	71,294	84,101	194,376	45,383

* Replacement is on order

** Hours

*** Not to be replaced

Updated 3/2/2007



DIVISION OF PURCHASES AND SUPPLY

1111 E. BROAD STREET, P. O. BOX 1199
RICHMOND, VIRGINIA 23219-1199

NOTICE OF CONTRACT AWARD

1. DATE:November 25, 2008
2. COMMODITY NAME:Compact Pickup Truck, Regular Cab 4x2
3. COMMODITY CODE: 07048
4. CONTRACT NUMBER:PF-34305
5. CONTRACT PERIOD:November 25, 2008 through September 14, 2009
6. EXPECTED ORDER CUT-OFF DATE:**Build-out Date: March 1, 2009**
7. SUPERSEDES:N/A
8. AUTHORIZED USERS:State Agencies and Other Public Bodies
9. CONTRACTORS' DUNS:023991615
10. CONTRACTOR:RK Chevrolet Inc
2661 Virginia Beach Blvd.
Virginia Beach, VA 23452
11. CONTACT: **Randy Meekins**
Telephone: (757) 431-6522
Fax: (757) 431-6523
E-mail: rmeekins@rkchevy.com
12. TERMS:Net 30
13. DELIVERY:100 days ARO
14. F.O.B.:Richmond, Virginia
15. PRICES & OPTIONS:See Page Sixteen (16)
16. FOR FURTHER CONTRACT INFORMATION CONTACT:Jessica L. Milburn
Telephone: (804) 786-3857
E-mail: jessica.milburn@dgs.virginia.gov

ADDITIONAL COPIES OF CONTRACTS AND ANY ASSOCIATED CONTRACT CHANGES MAY BE VIEWED AND PRINTED AT THE DPS WEBSITE: www.dgs.state.va.us/dps

NOTICE TO ALL STATE AGENCIES: This contract is the result of a competitive bid program and its use is mandatory for all State Agencies (unless otherwise indicated in item 7 above) in the purchase of any commodity listed herein. If the commodity or services available under this contract cannot be used by an agency, a request to purchase other goods or services of a similar nature shall be submitted to the appropriate DGS/DPS contract/purchase officer for approval. A complete and factual written justification is necessary to support the request. Refer to Section 13.7a of the Agency Procurement and Surplus Property Manual.

NOTE: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against a bidder because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

By: Jessica L. Milburn
Jessica L. Milburn / Statewide Contract Officer

Agenda Item 11

Background material follows this separator page.

Town of Vienna

Council Agenda Communication

DATE: January 5, 2009	SUBJECT: SET DATE FOR A PUBLIC HEARING TO CONSIDER THE PROPOSED REVISION TO THE SCHEDULE OF FEES AS CODIFIED AT § 1-12 OF THE VIENNA TOWN CODE.
AGENDA ITEM: 11	

Originating Department:	Planning & Zoning/Town Attorney
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EXPLANATION AND SUMMARY
<p>The Mayor and Town Council, at their regular meeting of December 15, 2008, approved the first reading of a new ordinance to regulate the use and placement of portable storage containers. Section 18-152.3.D. of said ordinance makes reference to a permit fee as set forth in § 1-12 of the Vienna Town Code.</p> <p>The attached Schedule of Fees, current to September 1, 2007, provides a new line for “portable storage container” and a fee of \$25.00 for each permit.</p>

Documents Attached:	Proposed Schedule of Fees.
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Departmental Recommendation:	The public hearing date is recommended for January 26, 2009; and the Director of Planning & Zoning concurs with the proposed revision to the Schedule of Fees and recommends its approval.
-------------------------------------	--

Town Manager's Recommendation:	
---------------------------------------	--

Town Attorney's Review/Recommendation:	
---	--

Cost and Financing:	
Account Number:	

Decision Needed by This Date:	
--------------------------------------	--

PROPOSED/SUGGESTED MOTION

"I move for approval of setting the date of January 26, 2009, for conducting a public hearing on a revision to Section 1-12 of the Vienna Town Code, Schedule of Fees, to include a permit fee for portable storage container."

OR

Other action as determined by the Mayor and Town Council to be appropriate.

DISPOSITION BY COUNCIL

☐ Approved

☐ Deferred Until:

☐ Denied

☐ Other:

COMMENTS:

THE TOWN OF VIENNA • SCHEDULE OF FEES
(Codified at § 1-12 of the Vienna Town Code; Current to September 1, 2007; Proposed Additions in Bold)

CHANGES IN ZONING: \$2,000.00

SUBDIVISION PLATS:*

Preliminary Plats	\$700.00 plus \$30.00 per lot
Revised Preliminary Plats	\$300.00
Final Plats	\$250.00 plus \$30.00 per lot
Revised Final Plats or Reapproval of expired Final Plats	\$300.00

SITE PLAN REVIEW:*

Site Plans (including Revised Site Plans, Wall Waivers, Landscape Plans, and Modifications of Requirements)	\$1,800.00 plus \$30.00 for each 1,000 square feet of gross floor area of new construction
Reapproval of expired Site, Landscape Plans or Modifications of Requirements	\$300.00
As-built Plan Review (per occurrence)	\$400.00

BOARD OF ZONING APPEALS:

Appeals, Variances or Zoning Map Interpretations	\$300.00
Conditional Use Permits	\$400.00

BOARD OF ARCHITECTURAL REVIEW:

New Development Review	\$200.00
Existing Development Review (Includes Revised Landscape Plans)	\$100.00

WINDOVER HEIGHTS BOARD OF REVIEW:

Appeals to Town Council from decision of WHBR	\$250.00
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OCCUPANCY PERMITS: \$ 50.00

SIGN PERMITS:

Permanent Signs	\$ 75.00
Temporary Signs	\$ 75.00 plus \$ 25.00 sign bond
Temporary Political Signs	\$ 25.00 plus \$ 25.00 sign bond

FENCE PERMITS: \$ 30.00

RESIDENTIAL BUILDING PERMITS: \$ 40.00 minimum fee, plus five cents (\$0.05) per square foot of the area of new construction
 (Zones RS-16, RS-12.5, RS-10, RM-2 and RTH)

COMMERCIAL BUILDING PERMITS: \$ 80.00 minimum fee, plus ten cents (\$0.10) per square foot of the area of new construction
 (Zones T, C-1, C-1A, C-1B, C-2, C-M, CMP, and PR)

DRIVEWAY PERMITS: \$ 40.00 each permit

ZONING ADMINISTRATOR INTERPRETATION/ DETERMINATION LETTER: \$ 250.00 fee per letter

BOUNDARY LINE ADJUSTMENT, CONSOLIDATION OR EASEMENT PLAT: \$ 150.00 fee per occurrence

PORTABLE STORAGE CONTAINER \$ 25.00 fee for each permit

*Application fee covers original submittal and first resubmittal (in response to staff review) only. All additional submittals require payment of additional application fee—equivalent to the original fee—at the time of filing.

PROPOSED ORDINANCE

Proposed by: Town Attorney

A proposed ordinance to amend Chapter 18, Zoning, Article 18, Supplemental Regulations, adding a new Section 18-152.3, Portable Storage Containers, of the Code of the Town of Vienna.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF VIENNA, VIRGINIA THAT:

Section 1: The Town Code, Chapter 18, Zoning, Article 18, Supplemental Regulations, is amended by the addition of a new section 18-152.3, Portable Storage Containers. The section to read as follows:

~~18-153~~152.3 -Portable Storage Containers.

Notwithstanding any contrary provision of this Ordinance, portable storage containers located outside of a fully-enclosed building or structure shall be allowed only in Single Family Detached Residential Districts, subject to the following restrictions:

(A) ~~In Residential, n~~No more than one (1) portable storage container shall be allowed on a zoning lot, and for no longer than a total of thirty (30) days in any consecutive twelve (12) month period, provided, however, that during bona fide construction activity and a building permit on such lot, and for an additional period of twenty-four (24) hours before and after such construction, a portable storage container used in connection with such construction activity may remain for a period not exceeding a total of six (6) months ~~one~~ in any twelve (12)-month period;

(B) No portable storage container shall have dimensions greater than sixteen feet (16') in length, eight feet (8') in width or eight feet (8') in height.

(C) Except where a building permit has been issued, all portable storage containers shall be located on private property and on a driveway or other paved surface.

(D) Portable storage containers shall be allowed only upon issuance of a permit by the Zoning Administrator. The fee for such permit shall be as set forth in Town Code §1-12, Schedule of Fees. ~~Twenty-five Dollars (\$25.00).~~

Section 2: This Ordinance shall become effective ten (10) days following notice of adoption by the Town Council.

Passed and approved this _____ day of _____, 2008.

M. Jane Seeman, Mayor

ATTEST:

Town Clerk

Agenda Item 12

Background material follows this separator page.

Town of Vienna

Council Agenda Communication

<u>DATE:</u> January 5, 2009	<u>SUBJECT:</u> CONVENE INTO CLOSED SESSION FOR MATTERS OF LITIGATION.
<u>AGENDA ITEM:</u> 12	

Originating Department:	Town Attorney
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EXPLANATION AND SUMMARY
This closed session is continued from the meeting of December 15, 2008 at the request of the Town Attorney, for discussion of several cases of litigation.

Documents Attached:	None.
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Departmental Recommendation:	
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Town Manager's Recommendation:	
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Town Attorney's Review/Recommendation:	
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Decision Needed by This Date:	
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PROPOSED/SUGGESTED MOTION
"I move that we convene into Closed Session, and upon conclusion, reconvene into open session."

DISPOSITION BY COUNCIL	
<input type="checkbox"/> Approved	<input type="checkbox"/> Deferred Until:
<input type="checkbox"/> Denied	<input type="checkbox"/> Other:
COMMENTS:	